



APR 12 2002

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In re Application of	:	
Leonard J. FABIANO	:	
Application No.: 09/674,221	:	DECISION ON
PCT No.: PCT/US00/04817	:	
Int. Filing Date: 25 February 2000	:	PETITION UNDER
Priority Date: 26 February 1999	:	
Attorney's Docket No.: 39932/198309	:	37 CFR 1.137(b)
For: ELECTRONIC COMMERCE SYSTEMS	:	
AND PROCESSES, ESPECIALLY FOR THE	:	
CABLE TELEVISION INDUSTRY	:	

This is in response to the "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b) " filed on 13 February 2002.

### **BACKGROUND**

On 25 February 2000, this international application was filed, claiming an earliest priority date of 26 February 1999.

No Demand electing the United States was filed in this international application. Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 26 October 2000. This international application became abandoned with respect to the United States at midnight on 26 October 2000 for failure pay the basic national fee.

On 26 October 2000, applicant filed a Transmittal letter (Form PTO-1390) for entry into the national stage in the United States, which was accompanied by, basic national fee. No executed oath or declaration was filed at such time.

On 01 December 2000, the United States Designated/Elected Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that the oath or declaration complying with 37 CFR 1.497(a) and (b) must be furnished within the time period set forth. The notification set a one month time limit or 31 months from the priority date for the application, whichever is later to respond.

On 27 September 2001, the United States Designated/Elected Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant has failed to respond to the Notification of Missing Requirements (Form PCT/DO/EO/905) mailed on 01 December 2000 within the time period set.

On 13 February 2002, applicant filed in the United States Patent and Trademark Office (PTO) the instant petition, which was accompanied by, *inter alia*, an executed declaration.

### **DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

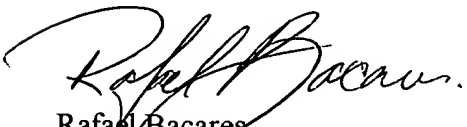
Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, (2) the petition fee set forth in § 1.17(m) and (3) the proper statement under 137(b)(3). In this application, no terminal disclaimer is required.

Accordingly, the petition is deemed to satisfy requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b). Further, a review of the application reveals that the requirements under 35 U.S.C. 371 for entry into the national stage in the US have been satisfied.

### **DECISION**

The petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing under 35 U.S.C. 371. The 35 USC 371 date of this application is **13 February 2002**.



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